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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/610,510 | 07/06/2000 | Steven A. Roth | ROTH #12 | 5589 |

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EXAMINER

WEINHOLD, INGRID M

| ART UNIT | PAPER NUMBER |
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3632

DATE MAILED: 02/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,510

Applicant(s)

ROTH, STEVEN A.

Examiner

Ingrid M Weinhold

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

2nd Office Action

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-11, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited prior art by applicant in Figure 2 in view of Fink et al. (3,318,561). The prior art shown by the applicant in Figure 2, shows a hanger rod (10) for supporting one or more components of a building from a building structure. A clamp (16) having a first straight first clamp segment and a straight second clamp spaced from the first clamp segment and parallel thereto, each of the first clamp segment and second clamp segment being double-ended and threaded over at least a portion of the length thereof, the clamp also includes a third clamp segment integral with and extending between the ends of the first clamp segment and the second clamp segment. A plate (18) is connected to the clamp and has spaced openings in which the ends of the first clamp segment and the second clamp segment remote from the third clamp segment project through the spaced openings. The first clamp segment and the second clamp segment are disposed on opposite sides of the hanger rod and the third clamp segment and the plate (18) are disposed on opposed sides of the hanger rod (10). Nuts (20) threadedly engage with the ends of the first clamp segment and the second clamp segment, which

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project through the spaced openings, urging the plate (18) toward the third clamp segment. An elongated stiffener member (14), or a channel with a rectangular shaped outer peripheral, is surrounded by the connected plate (18) and clamp (16) and is disposed between the plate and the third clamp segment with the hanger rod (10) extending parallel to the elongated stiffener member (14) and engaged by the elongated stiffener member. The elongated stiffener member (14) cooperates with the clamp (16) to maintain the hanger rod (10) in a predetermined position relative to the elongated stiffener member (14) and the clamp (16), wherein the hanger rod (10) is in engagement with the elongated stiffener member (14) and the clamp (16). The third segment is non-orthogonally disposed relative to the first clamp segment and the second clamp segment and is cooperable with the elongated stiffener member to continuously exert lateral forces on the hanger rod (10) continuously urging the hanger rod to the predetermined position due to clamping engagement of the hanger rod between the elongated stiffener and the third clamp segment. The plate (18) is in contact with the elongated stiffener member at a location on the elongated stiffener member spaced from the hanger rod (10) and urging the elongated stiffener member toward the hanger rod and the third clamp segment. The prior art shown by the applicant in Figure 2, however, does not show the third clamp segment with a straight portion. Finke et al. shows a clamp (21) with parallel first and second segments (19, 20) and a third segment with at least a portion being straight and non-orthogonally disposed relative to the first clamp segment and the second clamp segment. The first straight portion extends from and forms an obtuse angle with the first clamp segment and the second

clamp segment extends from and forms an obtuse angle with the second clamp segment. The first and second straight portions of the third clamp segment form an obtuse angle therebetween. The first and second straight portions exert generally opposed lateral forces on the hanger rod continuously urging the hanger rod to a location of interconnection between the first straight portion and the second straight portion. The first and second straight portions connect at a location substantially midway between the first clamp segment and the second clamp segment. The shape of the third clamp segment though can be easily changed to have the two straight portions connect at a location closer to the first or second clamp.⁶ There are many clamps that are well known and have different shapes to accommodate different size structures. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included at least a straight portion by Finke et al. on the third clamp segment by the prior art shown by the applicant in Figure 2 in order to account for different size and shape structures that were to be held in place. The further alternate limitation of the elongated stiffener member being circular shaped is well known in the art and would be obvious as Finke et al. shows a circular structure (65) being held in the clamp (21). Since various shaped clamps are being used to accommodate for various shaped and sized structures, it would be obvious to one of ordinary skill in the art at the time the invention was made to have the channel available in different shapes such as circular.

Claims 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited prior art by applicant in Figure 2 in view of Fink et al. (3,318,561) and further in view of Searls (3,713,613). There are many clamps that are well known and have different shapes to accommodate different size structures. Changing the shape of the third clamp segment is obvious in order to accommodate for different size and shape structures that are to be held in place. Searls shows a clamp (32) wherein the third clamp segment is substantially straight along the entire length thereof and forms an obtuse angle with the first clamp segment (32') and an acute angle with the second clamp segment (32''). This shape causes the predetermined position to be located at the corner with the acute angle. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the third clamp segment by the prior art cited by the applicant in view of Finke et al. be substantially straight such as in Searls in order to accommodate different size and shape structures to be held in place.

Response to Arguments

In regards to the applicant's argument based on specification informalities 1 and 2, the objection has been withdrawn.

In regards to the applicant's argument on the art by Finke et al. only consisting of one component located within the U-bolts and not having the same cooperative

relationships in reference to the third clamp segment, the rejection has been modified to have the prior art cited by the applicant in Figure 2 to be the main reference which teaches that disclosed by the applicant's invention. Finke et al. is being used in combination to show that the clamp itself can come in different shapes, specifically the shape claimed by the applicant in which the third clamp segment has two straight portions and in which each portion forms an obtuse angle with it's respective first or second clamp segment. With the structure being the same as that claimed by the applicant there is no reason as to why the clamp by Finke et al. used in the invention shown in the prior art by the applicant in Figure 2 would not work in exactly the same way and have the same cooperative relationships.

In regards to the applicant's argument on the art by Searls not teaching the concept of capturing a stiffener member and hanger rod, the same response above for Finke et al. holds true in this situation. The rejection has been modified to have the prior art cited by the applicant in Figure 2 to be the main reference which teaches that disclosed by the applicant's invention. Searls is being used in combination to show that the clamp itself can come in different shapes, specifically the shape claimed by the applicant. With the structure being the same as that claimed by the applicant there is no reason as to why the clamp by Searls used in the invention shown in the prior art by the applicant in Figure 2 would not work in exactly the same way and have the same cooperative relationships.

Applicant's arguments with respect to the double-patenting rejection have been considered but are moot in view of the new ground(s) of rejection.

In regards to the applicant's argument that even though there are known clamps and stiffeners having the same shape as claimed they are not used in the combination set forth in claim 10, it is to be recognized that the prior art cited by the applicant in Figure 2 shows the combination claimed by the applicant, with a slightly different shaped clamp. It is also to be understood that while known clamps of different sizes may not be shown to have the same combination as claimed, since the structure of the clamp is the same as what is claimed by the applicant these clamps can be used to perform the same utility and therefore the clamp is not considered novel. Stiffeners as well come in different shapes and sizes and would perform the same utility in the combination shown by the prior art in Figure 2.

In regards to the applicant's last argument that the predetermined position claimed in claim 18 is not taught in the prior art, the clamp taught by Searls shows the same structure claimed and would therefore perform the same utility in the combination taught by the prior art cited by the applicant in Figure 2.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ingrid Weinhold whose telephone number is (703)-306-5762.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3519 for informal documents and (703) 305-3597 for formal regular communication and After Final Communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



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SUPERVISORY PATENT EXAMINER